

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MONTY JONES,

Plaintiff,

v.

STATE OF WISCONSIN DIVISION OF
UNEMPLOYMENT INSURANCE,

Defendant.

OPINION AND ORDER

09-cv-149-bbc

On October 23, 2009, I denied defendant State of Wisconsin Division of Unemployment Insurance's motion to dismiss plaintiff's complaint on the ground that plaintiff failed to name a proper defendant under Title VII and gave plaintiff an opportunity to file an amended complaint naming the proper defendant, the State of Wisconsin Department of Workforce Development. Dkt. #20. Plaintiff has responded with a short statement asserting that the Division of Unemployment Insurance is the proper defendant in this case. Dkt. #21. He is incorrect and will risk the dismissal of his complaint if he does not amend it to name the proper defendant in this action.

As explained in the previous order, the Division of Unemployment Insurance is not a stand-alone agency under Wisconsin law. The Department of Workforce Development administers the unemployment insurance program for the state and is the entity that must be sued in this case. Wis. Stat. Ch. 108. Although this is a technical error, plaintiff must correct it in order to proceed with his lawsuit.

I will give plaintiff one more opportunity to amend his complaint to identify the State of Wisconsin Department of Workforce Development as the defendant in this case. As I made clear in the previous order, the second amended complaint should look exactly like the first amended complaint, except that plaintiff should highlight any changes in the caption and factual allegations that he makes to identify the proper defendant. If plaintiff fails to make the necessary correction, his complaint will be dismissed under Fed. R. Civ. 12(b)(6) for failure to name a proper defendant under Title VII.

ORDER

IT IS ORDERED that plaintiff Monty Jones has until January 6, 2010 within which to submit a proposed amended complaint naming the State of Wisconsin Department of Workforce Development as the defendant in this case. If plaintiff fails to respond by that

date, his complaint will be dismissed for failure to state a claim against a proper defendant.

Entered this 18th day of December, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge